

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 6347)

PHILLIP BRUTUS FOR CONGRESS)

AND CAMELIA SIGUINEAU, AS)

TREASURER)

DISMISSAL AND

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY

SYSTEM

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COMMISSION

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of activity and the amount in violation, (2) the apparent impact the alleged violation may have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases. The Office of General Counsel has scored MUR 6347 as a low-rated matter and, for the reasons set forth below, recommends that the Commission dismiss MUR 6347.

In this matter, an individual who has represented himself to be Ernest Pagnuel alleges that Phillip Brutus for Congress¹ and Camelia Siguineau, in her official capacity as treasurer ("the Committee"), violated the Act by failing to file timely and accurate disclosure reports, including reports disclosing disbursements for a campaign sign appearing on the side of the City Inn Hotel in Miami. Specifically, the complaint alleges that the Committee failed to file its 2009 Year End and 2010 July Quarterly Reports with the Commission. In addition, the

¹ Mr. Brutus was an unsuccessful candidate from Florida's 17th Congressional District in 2010.

1 complaint also suggests that the Committee's 2010 April Quarterly Report may contain
2 inaccuracies because the Committee has not responded to a request for additional information
3 from the Commission. Finally, the complaint alleges that the Committee failed to file receipts
4 and expenditures related to an "illegal billboard" on the side of the City Inn Hotel in Miami,
5 Florida.

6 The candidate, Phillip J. Brutus, responding on behalf of his Committee, asserts that the
7 Committee had filed the allegedly missing reports, but that due to a technical problem, at least
8 one of the reports (the 2009 Year End Report) has not been displayed on the Commission's
9 website. Attached to Mr. Brutus's response is a copy of the Committee's 2009 Year End Report
10 which, he claims, was filed with the Commission "in early 2010," although the attached
11 document is dated August 18, 2010. Mr. Brutus also states that the "billboard" on the City Inn
12 Hotel of Miami, was a simple "vinyl banner hoisted onto the top floor of a vacant building," and
13 that the Committee properly reported expenditures related to the sign in its 2010 Pre-Primary
14 report. The Committee's 2010 Pre-Primary Report, which was due on August 12, 2010 and was
15 filed on August 20, 2010, discloses a disbursement of \$500 on July 8, 2010 to "Logan
16 Corporation" for "City Inn sign installation."

17 In addition to addressing the merits of the alleged violations of the Act, Mr. Brutus casts
18 doubt on the legitimacy of the complaint itself. Specifically, Mr. Brutus claims in his response
19 that "Mr. Pagenel, who is a good friend of [Mr. Brutus] has since stated to several individuals
20 including [Mr. Brutus] that he did not file this complaint and that his signature was forged." In
21 order to try to resolve this issue, this Office attempted on several occasions to contact the

~~22 complainant at the phone number listed in the complaint. After several unsuccessful attempts,~~

23 we were finally able to contact Mr. Pagenel by telephone on December 8, 2010. According to
24 Mr. Pagenel, he did not submit the complaint to the Commission. Moreover, he stated he was

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1 not familiar with either the candidate or the notary who attested to the filing. This Office
2 subsequently attempted to contact Mr. Pagenel and have him submit in writing information
3 attesting to his oral statements, but we were unsuccessful in reaching him after leaving several
4 phone messages. Thus, in the absence of further corroboration by Mr. Pagenel as to the
5 authenticity of the submission and noting the fact that he has not returned our calls in attempting
6 to resolve this issue, we have continued to process this matter as a proper complaint.

7 As for the reporting issues, we note that the Committee's 2009 Year End Report has not
8 been filed, notwithstanding the Committee's statements to the contrary.

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11 We observe that the Committee has not filed any disclosure reports
12 since its 2010 Pre-Primary Report. As a result of its failure to timely file disclosure reports the
13 Committee has been involved in Administrative Fine matters: AF 2188 (failure to timely
14 file the 2010 12 Day Pre-Primary Report), AF 2241 (failure to timely file the 2010 October
15 Quarterly Report)

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3 this Office does not believe further
4 Enforcement action is warranted. Moreover, we observe that the Commission has already
5 pursued the Committee for its failure to timely file subsequent disclosure reports following its
6 2010 July Quarterly Report. Finally, the Committee may soon be eligible for administrative
7 termination, once it has settled its outstanding fines with the Commission. Thus, under EPS, the
8 Office of General Counsel has scored MUR 6347 as a low-rated matter and therefore, in
9 furtherance of the Commission's priorities as discussed above, the Office of General Counsel
10 believes that the Commission should exercise its prosecutorial discretion and dismiss the matter.
11 See *Heckler v. Chaney*, 470 U.S. 821 (1985).


12 **RECOMMENDATIONS**

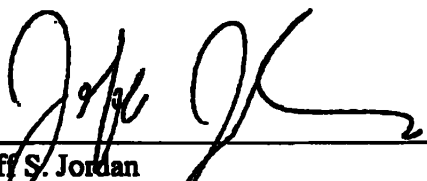
13 The Office of General Counsel recommends that the Commission dismiss MUR 6347,
14 close the file, and approve the appropriate letters.

15 Christopher Hughey
16 Acting General Counsel

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20 8/18/11
21 Date

22 BY:


23 Gregory R. Baker
24 Special Counsel
25 Complaints Examination
26 & Legal Administration
27



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
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